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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-265*

12 **LARRY PELINO DELAROSA**
22845 Rio Lobos Road
13 Diamond Bar, CA 91765

A C C U S A T I O N

14 Registered Nurse License No. 443482

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about August 31, 1989, the Board issued Registered Nurse License No. 443482
23 to Larry Pelino Delarosa (Respondent). The Registered Nurse License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on February 28, 2013,
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), states that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for

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1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
2 record pertaining to an arrest.

3 "This section shall not be construed to apply to any drug diversion program operated by any
4 agency established under Division 2 (commencing with Section 500) of this code, or any
5 initiative act referred to in that division."

6 7. Section 2750 states, in pertinent part, that the Board may discipline any licensee,
7 including a licensee holding a temporary or an inactive license, for any reason provided in Article
8 3 (commencing with section 2750) of the Nursing Practice Act.

9 8. Section 2761 states, in pertinent part:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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14 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
16 Act] or regulations adopted pursuant to it.

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18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof. . . ."

21 9. Section 2764 states:

22 "The lapsing or suspension of a license by operation of law or by order or decision of the
23 board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
24 Board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
25 against such license, or to render a decision suspending or revoking such license."

26 10. Section 2765 states:

27 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
28 charge substantially related to the qualifications, functions and duties of a registered nurse is

1 deemed to be a conviction within the meaning of this article. The board may order the license or
2 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
3 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
4 order granting probation is made suspending the imposition of sentence, irrespective of a
5 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
6 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
7 of guilty, or dismissing the accusation, information or indictment."

8 **REGULATORY PROVISIONS**

9 11. California Code of Regulations, title 16, section 1444, states, in pertinent part:

10 "A conviction or act shall be considered to be substantially related to the qualifications,
11 functions or duties of a registered nurse if to a substantial degree it evidences the present or
12 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
13 safety, or welfare. . . ."

14 **COST RECOVERY**

15 12. Section 125.3 states, in pertinent part, that the Board may request the administrative
16 law judge to direct a licentiate found to have committed a violation or violations of the licensing
17 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
18 case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Substantially-Related Crime)**

21 13. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision
22 (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about
23 November 24, 1998, Respondent was convicted of a crime substantially related to the
24 qualifications, functions or duties of a registered nurse which to a substantial degree evidences his
25 present or potential unfitness to practice in a manner consistent with the public health, safety, or
26 welfare, as follows:

27 a. On or about November 24, 1998, after pleading *nolo contendere*, Respondent was
28 convicted of one felony count of violating Penal Code sections 164 and 192, subdivision (a)

1 [attempted voluntary manslaughter], in the criminal proceeding entitled *The People of the State of*
2 *California v. Larry Pelino Dela Rosa* (Super. Ct. Los Angeles County, 1998, No. NA038190).
3 The court sentenced Respondent to serve 30 months in state prison and pay a restitution fine of
4 \$200. The circumstances surrounding the conviction are that on or about September 17, 1998,
5 Long Beach Police Department Officers were dispatched to a residence in the City of Long
6 Beach, to investigate an assault with a deadly weapon. The Respondent was identified as the
7 male suspect who had just stabbed a female. The Respondent and the victim, his wife, were
8 arguing over an extra-marital affair that the Respondent's then-wife was having with a contractor
9 that Respondent and his wife had hired to construct a house for them. Respondent became angry
10 and stabbed his wife in the abdomen and punched the contractor.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct / Violate Act)**

13 14. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and /
14 or (d), in that Respondent was convicted of a crime on November 24, 1998, which involved
15 unprofessional conduct that violated the Nursing Practice Act. Complainant, refers to, and by this
16 reference incorporates, the allegations set forth above in paragraph 13, subparagraph (a),
17 inclusive, as though set forth fully.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board issue a decision:

21 1. Revoking or suspending Registered Nurse License No. 443482, issued to Larry
22 Pelino Delarosa;

23 2. Ordering Larry Pelino Delarosa to pay the Board the reasonable costs of the
24 investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: OCTOBER 11, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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